

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL SALLIE and MELINDA PERKINS,)
Plaintiffs,)
vs.)
BRYAN LYNK, individually and in his)
official capacity as a Police Officer of)
Midland Borough; **BRUCE TOOCH**,)
individually and in his official capacity as a)
Police Officer of Midland Borough;)
RONALD LUTTON, individually and in)
his official capacity as a Police Officer of)
Midland Borough; **GEORGE**)
HRUBOVCAK, individually and in his)
official capacity as a Police Officer of)
Midland Borough; and **MIDLAND**)
BOROUGH,)
Defendants.)

MEMORANDUM ORDER

AND NOW, this 19th day of November, 2012, upon due consideration of defendants' motion in limine to exclude medical record evidence and the parties' submissions in conjunction therewith, IT IS ORDERED that [83] the motion be, and the same hereby is, granted. The "Physician Office Note" of June 16, 2009, by Dr. Brett does not contain any basis to believe the account of the information about the incident had any correlation to the medical impressions of the doctor or the treatment he prescribed. Consequently, its relevant value is reduced to corroborating Sallie's account of the events in question and the hearsay exceptions advanced by plaintiffs do not authorize the admission of the note for that purpose. Finally, even assuming

there was some unspecified connection between the doctor's understanding of the background information in the note and the doctor's impression and treatment, the probative value of the note is substantially outweighed by its tendency to (1) prejudice defendants unfairly by inviting the jury to speculate about such a connection and/or (2) waste time in presenting evidence on matters not bearing on the alleged injury and damages suffered by Sallie.

s/ David Stewart Cercone
David Stewart Cercone
United States District Judge

cc: Patrick Sorek, Esquire
Douglas C. Hart, Esquire
Charles H. Saul, Esquire
Kyle T. McGee, Esquire

(Via CM/ECF Electronic Mail)